

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 23264 Permit 16032 License 10447

**ORDER APPROVING CHANGES IN PURPOSE OF USE, PLACE OF USE,
AND AMENDING THE LICENSE**

WHEREAS:

1. License 10447 was issued on April 2, 1975 pursuant to Application 23264. The license is assigned to Juliana Vineyards.
2. Petition to change the purpose and place of use were filed with the State Water Resources Control Board (SWRCB) on October 3, 1994.
3. The petition was protested and issues raised by the protests resulted in the County of Napa adopting Ordinance No. 1118 which restricts certain types of land uses within the county.
4. A Settlement Agreement dated March 10, 1995 resolved the litigation among water users within the Putah Creek Watershed upstream of Lake Berryessa.
5. An amended petition to change the purpose and place of use was refiled with the SWRCB on May 29, 1997.
6. The SWRCB has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purpose of use for License 10447 is amended to read:
Domestic, Irrigation, Frost Protection, Stockwatering, Recreational, and Fire Protection.
2. The place of use for License 10447 shall be as follows:
Stockwatering and recreational use at Hardester South Reservoir within the SE¼ of SE¼ of Projected Section 21 and SW¼ of SW¼ of projected Section 22, T9N, R5W, MDB&M; irrigation and frost protection as follows:
 - 6 acres within NW¼ of SE¼ of projected Section 16, T9N, R5W, MDB&M;
 - 10 acres within SW¼ of SE¼ of projected Section 16, T9N, R5W, MDB&M;
 - 7 acres within SE¼ of SE¼ of projected Section 16, T9N, R5W, MDB&M;
 - 2 acres within NW¼ of NE¼ of projected Section 21, T9N, R5W, MDB&M;
 - 28 acres within NE¼ of NE¼ of projected Section 21, T9N, R5W, MDB&M;
 - 33 acres within SE¼ of NE¼ of projected Section 21, T9N, R5W, MDB&M;

1 acre within NW¼ of SE¼ of projected Section 21, T9N, R5W, MDB&M;
23 acres within NE¼ of SE¼ of projected Section 21, T9N, R5W, MDB&M;
8 acres within SE¼ of SE¼ of projected Section 21, T9N, R5W, MDB&M;
18 acres within SW¼ of NW¼ of projected Section 22, T9N, R5W, MDB&M;
18 acres within SE¼ of NW¼ of projected Section 22, T9N, R5W, MDB&M;
2 acres within SW¼ of NE¼ of projected Section 22, T9N, R5W, MDB&M;
27 acres within NE¼ of SW¼ of projected Section 22, T9N, R5W, MDB&M;
37 acres within NW¼ of SW¼ of projected Section 22, T9N, R5W, MDB&M;
35 acres within SW¼ of SW¼ of projected Section 22, T9N, R5W, MDB&M;
9 acres within SE¼ of SW¼ of projected Section 22, T9N, R5W, MDB&M;
23 acres within NW¼ of NW¼ of projected Section 27, T9N, R5W, MDB&M;
1 acre within NE¼ of NW¼ of projected Section 27, T9N, R5W, MDB&M; &
1 acre within NE¼ of NE¼ of projected Section 28, T9N, R5W, MDB&M
289 acres total; and

Domestic and Fire Protection use within Parcel No. 32 as shown on map filed with the SWRCB.

3. Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:
- (1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.
 - (2) Diversion of water under this license shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The licensee shall be responsible for partial payment of the Watermaster costs in accordance with the terms of the Agreement.
 - (3) Licensee shall measure reservoir storage at the beginning and end of the Accumulation Season. Contribution to Annual Depletion shall be determined to be the change in storage during the Accumulation Season. The licensee shall pay for the cost of installing and maintaining any water level measuring device required by the SWRCB.
 - (3b) If reasonably determined to be necessary by the watermaster to determine Annual Depletion, Big Lake (Dick Week Reservoir) shall have a water level measuring device that documents continuous reservoir levels during the Accumulation Season, purchased (and replaced if necessary) by the watermaster and installed and maintained at the expense of the licensee.
 - (4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with paragraph 3.A.3 (Measuring Devices) of the Agreement.

- (5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water diverted to storage under this license at the beginning and end of the Accumulation Season as required by the watermaster. Such annual reports shall be made in writing on forms approved by the watermaster.
- (6) Licensee shall allow the watermaster reasonable access to the project covered by this license to inspect measuring equipment and to verify compliance to terms and conditions of the Agreement, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.
- (7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.
- (8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)
- (9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.
- (10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.
- (11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.
- (12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The SWRCB shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise,

amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

Dated: **OCTOBER 23 1997**

Roger Phum
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23264 PERMIT 16032 LICENSE 10447

**ORDER TO CHANGE THE PURPOSE OF USE,
PLACE OF USE AND AMEND THE LICENSE**

WHEREAS:

1. License 10447 was issued to Buttes Gas and Oil Company and was filed with the County Recorder of Napa County on April 4, 1975, Document BL0184.
2. License 10447 was subsequently assigned to Juliana Vineyards.
3. A petition for change in the purpose of use and place of use has been filed with the State Water Resources Control Board (State Water Board).
4. The State Water Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The license condition pertaining to the State Water Board's continuing authority should be replaced with the current version as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purposes of use under this license shall be as follows:

Irrigation, Frost Protection, Stockwatering, Recreation, and Fire Protection

(0000003)

2. The place of use under this license shall be as follows:

6 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 16, T9N, R5W, MDB&M;
 10 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 16, T9N, R5W, MDB&M;
 7 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 16, T9N, R5W, MDB&M;
 2 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 21, T9N, R5W, MDB&M;
 28 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 21, T9N, R5W, MDB&M;
 33 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 21, T9N, R5W, MDB&M;
 1 acre within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 21, T9N, R5W, MDB&M;
 23 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 21, T9N, R5W, MDB&M;
 8 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 21, T9N, R5W, MDB&M;
 18 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 18 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 2 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 27 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 37 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 35 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 9 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 22, T9N, R5W, MDB&M;
 23 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 27, T9N, R5W, MDB&M;
 1 acre within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 27, T9N, R5W, MDB&M; and
 1 acre within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 28, T9N, R5W, MDB&M;
 289 acres total (0000004)

3. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: **APRIL 8 1994**


Edward C. Anton, Chief
Division of Water Rights

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 23264

PERMIT 16032

LICENSE 10447

THIS IS TO CERTIFY, That

BUTTES GAS AND OIL COMPANY
c/o JAMES C HANSON,
926 J STREET, SACRAMENTO, CALIFORNIA 95814

HAS made proof as of DECEMBER 20, 1974 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
AN UNNAMED STREAM IN NAPA COUNTY

tributary to BURTON CREEK THENCE MAXWELL CREEK THENCE POPE CREEK

for the purpose of IRRIGATION, STOCKWATERING, RECREATIONAL AND FIRE PROTECTION USES
under Permit 16032 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from APRIL 21, 1969 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed THIRTY-SEVEN (37) ACRE-Feet PER ANNUM, TO BE COLLECTED
FROM NOVEMBER 1 OF EACH YEAR TO JUNE 15 OF THE SUCCEEDING YEAR. THE MAXIMUM
WITHDRAWAL IN ANY ONE YEAR SHALL NOT EXCEED 35 ACRE-Feet.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

NORTH 400 FEET AND EAST 100 FEET FROM SW CORNER OF PROJECTED SECTION 22, T9N, R5W,
MDB&M, BEING WITHIN SW1/4 OF SW1/4 OF SAID SECTION 22.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

STOCKWATERING AND RECREATIONAL USES WITHIN SE1/4 OF SE1/4 OF PROJECTED SECTION
21 AND SW1/4 OF SW1/4 OF PROJECTED SECTION 22, T9N, R5W, MDB&M; AND IRRIGATION
AS FOLLOWS:

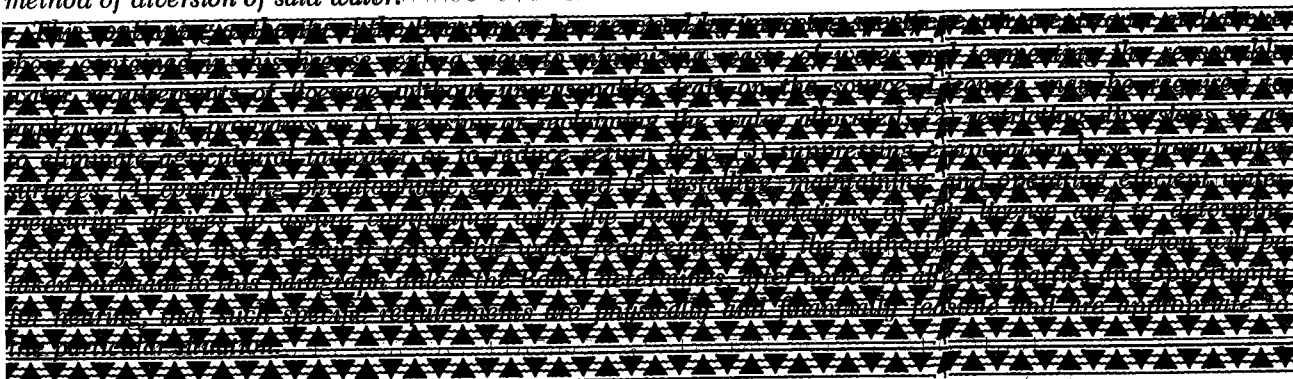
23 ACRES WITHIN SW1/4 OF SW1/4 OF PROJECTED SECTION 22, T9N, R5W, MDB&M
18 ACRES WITHIN SE1/4 OF SW1/4 OF PROJECTED SECTION 22, T9N, R5W, MDB&M
4 ACRES WITHIN NW1/4 OF NW1/4 OF PROJECTED SECTION 27, T9N, R5W, MDB&M
5 ACRES WITHIN NE1/4 OF NW1/4 OF PROJECTED SECTION 27, T9N, R5W, MDB&M

50 ACRES TOTAL

LICENSEE SHALL MAINTAIN AN OUTLET PIPE OF ADEQUATE CAPACITY IN HIS DAM AS NEAR
AS PRACTICABLE TO THE BOTTOM OF THE NATURAL STREAM CHANNEL, OR PROVIDE OTHER MEANS
SATISFACTORY TO THE STATE WATER RESOURCES CONTROL BOARD, IN ORDER THAT WATER
ENTERING THE RESERVOIR OR COLLECTED IN THE RESERVOIR DURING AND AFTER THE CURRENT
STORAGE SEASON MAY BE RELEASED INTO THE DOWNSTREAM CHANNEL TO THE EXTENT NECESSARY
TO SATISFY DOWNSTREAM PRIOR RIGHTS.

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

All rights and privileges under this license, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.



Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: APR 2, 1975

STATE WATER RESOURCES CONTROL BOARD

R. J. Rosenberger
Chief, Division of Water Rights

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

THIS LICENSE DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

LICENSEE IS HEREBY PUT ON NOTICE THAT THERE MAY BE YEARS WHEN WATER COLLECTED TO STORAGE UNDER THIS LICENSE WILL NOT BE WITHIN THE RESERVATION OF WATER ESTABLISHED FOR THE WATERSHED UPSTREAM FROM MONTICELLO RESERVOIR IN DECISION D-869. DURING SUCH YEARS, UNLESS REPLACEMENT WATER IS PROVIDED ON AN EXCHANGE BASIS, LICENSEE SHALL RELEASE WATER COLLECTED TO STORAGE UNDER THIS LICENSE DURING THE PRECEDING COLLECTION SEASON AT THE MAXIMUM PRACTICABLE RATE TO FLOW INTO MONTICELLO RESERVOIR.

6-292 asgbb Giuliano Vineyard;

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THE STATE WATER BOARD HAS RECEIVED A REPORT FROM THE JULIANO VINEYARD DISTRICT THAT THE WATER QUALITY IN THE DISTRICT HAS DEGRADED TO SUCH AN EXTENT THAT THE DISTRICT HAS BEEN FORCED TO DISCONTINUE THE USE OF THE WATER FOR IRRIGATION PURPOSES. THE DISTRICT HAS REQUESTED THAT THE STATE WATER BOARD TAKE IMMEDIATE ACTION TO INVESTIGATE THE CAUSE OF THE DEGRADATION AND TO TAKE APPROPRIATE ACTION TO RESTORE THE WATER QUALITY TO A LEVEL THAT WOULD PERMIT THE DISTRICT TO RESUME THE USE OF THE WATER FOR IRRIGATION PURPOSES. THE DISTRICT HAS ALSO REQUESTED THAT THE STATE WATER BOARD TAKE IMMEDIATE ACTION TO INVESTIGATE THE CAUSE OF THE DEGRADATION AND TO TAKE APPROPRIATE ACTION TO RESTORE THE WATER QUALITY TO A LEVEL THAT WOULD PERMIT THE DISTRICT TO RESUME THE USE OF THE WATER FOR IRRIGATION PURPOSES.

IT IS REQUESTED THAT THE STATE WATER BOARD TAKE IMMEDIATE ACTION TO INVESTIGATE THE CAUSE OF THE DEGRADATION AND TO TAKE APPROPRIATE ACTION TO RESTORE THE WATER QUALITY TO A LEVEL THAT WOULD PERMIT THE DISTRICT TO RESUME THE USE OF THE WATER FOR IRRIGATION PURPOSES.

THE STATE WATER BOARD HAS RECEIVED A REPORT FROM THE JULIANO VINEYARD DISTRICT THAT THE WATER QUALITY IN THE DISTRICT HAS DEGRADED TO SUCH AN EXTENT THAT THE DISTRICT HAS BEEN FORCED TO DISCONTINUE THE USE OF THE WATER FOR IRRIGATION PURPOSES. THE DISTRICT HAS REQUESTED THAT THE STATE WATER BOARD TAKE IMMEDIATE ACTION TO INVESTIGATE THE CAUSE OF THE DEGRADATION AND TO TAKE APPROPRIATE ACTION TO RESTORE THE WATER QUALITY TO A LEVEL THAT WOULD PERMIT THE DISTRICT TO RESUME THE USE OF THE WATER FOR IRRIGATION PURPOSES. THE DISTRICT HAS ALSO REQUESTED THAT THE STATE WATER BOARD TAKE IMMEDIATE ACTION TO INVESTIGATE THE CAUSE OF THE DEGRADATION AND TO TAKE APPROPRIATE ACTION TO RESTORE THE WATER QUALITY TO A LEVEL THAT WOULD PERMIT THE DISTRICT TO RESUME THE USE OF THE WATER FOR IRRIGATION PURPOSES.